

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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**GARRY WARREN,**

Plaintiff,

- v -

9:12-CV-1318

**SGT. BEALEY, Sergeant, Greene Correctional Facility,  
DAMIANO, Correction Officer, Greene Correctional  
Facility, LAMPOUTUS, Correction Officers,  
Greene Correctional Facility, HAYES, Correction  
Officer, Greene Correctional Facility, JOHN DOE,  
Correction Officer, Mid-State Correctional Facility,  
JOHN DOE(S), Correction Officers, Greene  
Correctional Facility,**

Defendants.

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**THOMAS J. McAVOY,  
Senior United States District Judge**

**DECISION & ORDER**

**I. INTRODUCTION**

This *pro se* action brought pursuant to 42 U.S.C. § 1983 was referred to the Hon. Randolph F. Treece, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). No objections to the Report-Recommendation and Order dated July 28, 2014 have been filed, and the time to do so has expired.

The Docket indicates that the underlying motion for summary judgment, upon which Magistrate Judge Treece issued his Report-Recommendation and Order, was filed on

January 17, 2014. Despite being granted three extension of time in which to file opposition, Plaintiff failed to do so. As indicated, Magistrate Judge Treen issued his Report-Recommendation and Order on July 28, 2014. On August 8, 2014, Plaintiff filed a request to withdrawal this action without prejudice until he can acquire legal representation. Defendants opposed the request. On August 11, 2014, the Court denied Plaintiff's request and granted him an extension until September 15, 2014 to either file objections to Magistrate Judge Treen's Report-recommendation or to have an attorney electronically file a notice of appearance and to file any objections to the report-recommendation on Plaintiff's behalf. On September 2, 2014, the Report-Recommendation and Order, mailed to Plaintiff's last reported address, was returned as "undeliverable."

Every litigant is required to keep the Court advised of his or her address so that documents and decisions may be served upon them by mail. See Local Rules of the United States District Court for the Northern District of New York, 10.1(b), 41. (2) & (b). Failure to do so can greatly delay proceedings and, therefore, can be construed as an abandonment of the action. Under the circumstances, including Plaintiff's failure to respond to the motion for summary judgment despite three extension and his request to withdraw his action *after* Defendants filed their motion for summary judgment, the Court deems that Plaintiff has intentionally failed to file any objections and has abandoned this action.

Furthermore, after examining the record, this Court has determined that the Report-Recommendation and Order is not subject to attack for plain error or manifest injustice.

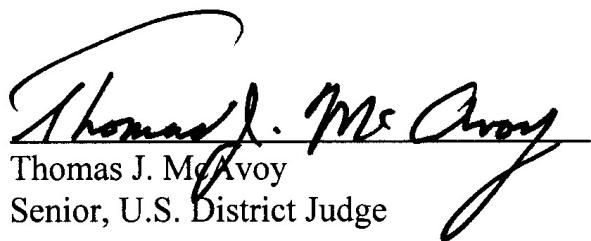
## **II. CONCLUSION**

Accordingly, the Court **ADOPTS** the Report-Recommendation and Order (Dkt. No. 33) for the reasons stated therein. Therefore, it is hereby

**ORDERED** that Defendants' Motion for Summary Judgment (Dkt. No. 24) is **GRANTED**, and all claims in this action are **DISMISSED**. The Clerk of the Court may enter judgment for the Defendants and mark this case as closed.

**IT IS SO ORDERED.**

**Dated:** September 22, 2014



Thomas J. McAvoy  
Senior, U.S. District Judge